

### **REMARKS / ARGUMENTS**

Claims 1-30 are pending in the instant application. Claims 1-9, 11-19 and 21-29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over USP 7,225,247 ("Kenndy") in view of USPP 2003/0069975 ("Abjanic"). Claims 10, 20 and 30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kennedy, Abjanic and further in view of USP 6,208,647 ("Deng"). The Applicant respectfully traverses these rejections at least based on the following remarks.

#### **I. Examiner's Response to Arguments**

In the 2/18/09 Office Action, the Examiner relies on Kennedy to disclose the alleged "common switch", "first and second blade servers", and "common bus". The Examiner relies on Abjanic to disclose the alleged respective "first, second and third identifiers located within a header portion of the received packet". The Applicant in the 5/15/09 response argued that Abjanic discloses using a content based message, such as XML message format, where the header portion does not contain any identifiers for the switch 165, the source (the alleged "first blade server") and the destination (the alleged "second blade server") (see pages 16-18 of the 5/15/09 response).

The Examiner states the following in pages 2-3 of the Office Action:

"In response to applicant's arguments that Abjanic's XML header simply does not contain identifier information that identifies the switch, **examiner relied on Abjanic for address-based routing.**"

The Examiner's above argument was rebutted by Applicant's 5/15/09 response. **Assuming arguendo that Abjanic uses an address-based switching technique for routing decision**, which is based on a source and/or destination address (i.e., **using a non content based and non XML message packet**), the Examiner's argument is still deficient. **Abjanic at least does not disclose that an identifier for the switch 165 in the message.**

More specifically, the Examiner is referred to the following citation of Abjanic:

"switch 165 may switch the transformed message using address-based routing or switching techniques, such as switching to a particular output port of switch 165 **based on source and/or destination address and port numbers provided in the message or provided in a header of a packet carrying the message.**"

See Abjanic at ¶0073 (emphasis added). Abjanic discloses that the switch 165 transforms the message and provides switching to a particular output port **based only on source and/or destination address and port numbers**. In other words, at best, Abjanic's header contains the addresses (the alleged "identifiers") of the source address (the alleged "second identifier for the first blade server") and the destination address (the alleged "third identifier for the second blade server"), and **there is no first identifier for the switch 165 in the header of the message**. In this regard, Abjanic still does not disclose or suggest the alleged respective "**first, second and third identifiers** located within a header portion of the received packet", as alleged by the Examiner.

In response to Applicant's above argument, the Examiner states the following in

pages 2-3 of the Office Action:

"With respect to applicant's arguments that Abjanic does not disclose or suggest at least the limitation of **"routing via said common switch**, at least a portion of said at least one received packet to at least second blade server, **based on said determined first , second and third identifiers from said header portion** of said receiver at least one packet", examiner points to Abjanic per [0073], " **Because content based message director 145 may be optional in some instances, switch 165 may switch the transformed message using address-based routing or switching techniques, such as switching to a particular output port of switch 165 based on source and/or destination address and port numbers provided in the message or provided in a header of a packet carrying the message.**" The port number is equated as the initial destination address which is specified in the header of the packet as it serves as an identifier of the switch through which the message is routed through. The port numbers, which refer to the physical ports of the switch, is equated as one of the multitude of identifier of the switch. Therefore, the source, port number, and the destination address is equated as the first, second and third identifiers, respectively."

The Examiner's above argument is moot, since the Examiner still has not addressed Applicant's 5/15/09 argument, that the message received by Abjanic's switch 165, includes only the source address (the alleged "second identifier for the first blade server") and the destination address (the alleged "third identifier for the second blade server"). Abjanic clearly does not disclose or suggest that the received message include the address for the switch 165 (the alleged "first identifier"). In this regard, Abjanic's still does not disclose or suggest **"routing via said common switch**, at least a portion of said at least one received packet to at least second blade server, **based on said determined first, second and third identifiers from said header portion** of said receiver at least one packet," as recited in Applicant's claim 1. Abjanic, therefore, does not overcome Kennedy's above deficiencies.

In addition, the Applicant also points out that Abjanic discloses that the wireless device 132 (the alleged “first blade server”) is external to the data center 135 (the alleged “plurality of servers”), and the wireless device 132 (the alleged “first blade server”) communicates to the switch via the Internet (i.e., not via a common bus). In this regard, Abjanic does not disclose or suggest receiving at the switch 165 (the alleged “common switch”), a message (the alleged “one packet”) from “a first blade server ... coupled to the common switch via a common bus,” as recited in Applicant’s claim 1. Therefore, Abjanic cannot be combined with Kennedy to establish a *prima facie* case of obviousness to reject Applicant’s claim 1.

Accordingly, based on the foregoing rationale, the Applicant maintains that the combination of Kennedy and Abjanic does not establish a *prima facie* case of obviousness to reject Applicant’s claim 1. Claim 1 is, therefore, submitted to be allowable. Independent claims 11 and 21 are similar in many respects to the method disclosed in claim 1. Therefore, the Applicant submits that claims 11 and 21 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

### **REJECTION UNDER 35 U.S.C. § 103**

In order for a *prima facie* case of obviousness to be established, the Manual of Patent Examining Procedure, Rev. 6, Sep. 2007 (“MPEP”) states the following:

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness."

See the MPEP at § 2142, citing *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006), and *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval). Further, MPEP § 2143.01 states that "the mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art" (citing *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1396 (2007)). Additionally, if a *prima facie* case of obviousness is not established, the Applicant is under no obligation to submit evidence of nonobviousness:

The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness.

See MPEP at § 2142.

## **II. The Proposed Combination of Kennedy and Abjanic Does Not Render Claims 1-9, 11-19 and 21-29 Unpatentable**

The Applicant now turns to the rejection of claims 1-9, 11-19 and 21-29 under 35 U.S.C. 103(a) as being unpatentable over Kennedy in view of Abjanic.

**A. Independent Claims 1, 11 and 21**

With regard to the rejection of independent claim 1 under 35 U.S.C. § 103(a), the Applicant submits that the combination of Kennedy and Abjanic does not disclose or suggest at least the limitation of “**determining** at least **a first identifier** identifying said common switch, **a second identifier** identifying said first blade server and at least **a third identifier** identifying said second blade server, wherein said first, second and third identifiers are located within a header portion of said received at least one packet,” as recited by the Applicant in independent claim 1.

In the Office Action, the Examiner states the following:

“As per claims 1, 11, and 21, Kennedy discloses a method for communicating information in a server, the method comprising: receiving at a common switch, at least one packet (Col 5 line 49-Col 6 line 11; Management controller 120 packetizes the information) from a first blade server of a plurality of blade servers, wherein said at least one packet is designated for at least a second blade server of said plurality of blade servers, and wherein said first blade server and said at least a second blade server are coupled to common switch via a common bus (Col 5 line 49- Col 6 line 11; Chassis management module 580 orchestrates the exchange of management information between blade servers 500 through 500G; Figure 5: Items 500A-500G).”

See the Office Action at pages 2-3. The Examiner relies on Kennedy in Fig. 5, and equates the plurality of blade servers 500-500G to Applicant’s “first and second blade servers”, the chassis management module 580 to Applicant’s “common switch”, and the bus 570 to Applicant’s “common bus”. The Examiner concedes the following:

“Kennedy fails to disclose determining at least a first identifier identifying said common switch, a second identifier identifying said first blade server, and at least a third identifier identifying said second blade server, wherein said first, second and third identifiers are located within a header portion of said received at least one packet; and routing via said common switch, at least a portion of said at least one received packet to at least said second blade server, based on said determined first, second and third identifiers from said header portion of said at least one received packet.”

See the Office Action at page 4. The Examiner looks to Abjanic to disclose Kennedy's above deficiencies, namely, the alleged respective “first, second and third identifiers located within a header portion of the received packet”. More specifically, the Office Action states the following:

“Abjanic disclose determining at least a first identifier identifying said common switch, a second identifier identifying said first blade server, and at least a third identifier identifying said second blade server, wherein said first, second and third identifiers are located within a header portion of said received at least one packet; and ([0073];

([0083]; a computer chassis where cards or blades can be plugged in)

routing via said common switch, (Figure 7: item 710)at least a portion of said at least one received packet to at least said second blade server, based on said determined first, second and third identifiers from said header portion of said at least one received packet . ([0073])”

See the Office Action at pages 4-5. The Applicant maintains the arguments in the 5/15/09 response. In addition the Examiner is referred to Applicant's arguments in the Examiner's Response to Arguments section above, that Abjanic does not disclose or suggest at least the limitation of “**determining** at least **a first identifier** identifying said common switch, **a second identifier** identifying said first blade server and at least

**a third identifier** identifying at least said second blade server, wherein said first, second and third identifiers are **located within a header portion of said received at least one packet; and routing via said common switch**, at least a portion of said at least one received packet to at least said second blade server, **based on said determined first, second and third identifiers from said header portion of said received at least one packet,**” as recited by the Applicant in independent claim 1.

Accordingly, based on the foregoing rationale, the Applicant maintains that the combination of Kennedy and Abjanic does not establish a prima facie case of obviousness to reject Applicant’s claim 1. Claim 1 is, therefore, submitted to be allowable. Independent claims 11 and 21 are similar in many respects to the method disclosed in claim 1. Therefore, the Applicant submits that claims 11 and 21 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

#### **B. Dependent Claims 2-9, 12-19 and 22-29**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11 and 21 under 35 U.S.C. § 103(a) as being unpatentable over the combination of Kennedy and Abjanic has been overcome and request that the rejection be withdrawn. Additionally, claims 2-9, 12-19 and 22-29 depend directly or indirectly from independent claims 1, 11, and 21, respectively, and are, consequently, also respectfully submitted to be allowable.



In addition, regarding the rejection of claims 2-9, 12-19 and 22-29, the Applicant refers the Examiner to the above arguments of claim 1 that Abjanic does not disclose or suggest that the identifiers for the common switch, the first and second blade servers are located within a header portion of the received packet. Therefore, claims 2-9, 12-19 and 22-29 are also submitted to be allowable.

**III. The Proposed Combination of Kennedy, Abjanic and Deng Does Not Render Claims 10, 20 and 30 Unpatentable**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11 and 21 under 35 U.S.C. § 103(a) as being unpatentable over Kennedy and Abjanic has been overcome and request that the rejection be withdrawn. Deng does not overcome the above deficiencies of Kennedy and Abjanic. Therefore, claims 10, 20 and 30 are submitted to be allowable. Additionally, claims 10, 20 and 30 depend from independent claims 1, 11, and 21, respectively, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 1-30.

**CONCLUSION**

Based on at least the foregoing, the Applicant believes that all claims 1-30 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and request that the Examiner telephone the undersigned Patent Agent at (312) 775-8093.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

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